

**REMARKS**

**Amendments**

In order to expedite prosecution of the current invention, claim 1 has been amended to specifically include the required length of time, which is a minimum of two hours, for subjecting the radioactive seeds to dry heat to effect sterilization. Support for this amendment is presented on page 11, lines 7-9 of the specification. No new matter has been added by the claim amendment herein.

**Rejection under 35 U.S.C. § 102(b)**

Claims 1-3, 5, 9-10, 12-14, and 18-19 stand rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent No. 5,460,592 to Langton et al ("Langton"). Claim 1 has been amended. Applicants respectfully submit that the amendment does not constitute new matter in contravention of 35 U.S.C. §132. These rejections are respectfully traversed and reconsideration is respectfully requested.

Langton discloses a carrier assembly and method for preparing the carrier assembly for a delivery system for interstitial radiation therapy, and, more particularly, to a carrier assembly in which an elongated member having radioactive seeds therein is disposed. The carrier assembly is heated to provide a semi-rigid elongated member with the carrier assembly being adapted to be shipped to a site of use at which time the semi-rigid elongated

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member and seeds may be removed from the carrier assembly for use in interstitial radiation therapy.

Langton does not disclose the required length of time for subjecting the radioactive seeds to dry heat to effect sterilization to be at least two hours. As disclosed in Langton on column 6, lines 1-3, Langton specifies the required length of time to be 1 hour. Furthermore, Langton does not disclose that the radioactive seeds are free of moisture nor does Langton disclose that a dose distribution of each radioactive seed is isotropic.

When a claimed invention is not identically disclosed in a reference, and instead requires picking and choosing among a number of different options disclosed by the reference, then the reference does not anticipate. *Mendenhall v. Astec Industries, Inc.*, 13 U.S.P.Q.2d 1956 (Fed. Cir. 1989).

In accordance with the aforementioned, Applicants respectfully request that the Examiner withdrawal the rejections for claims 1-3, 5, 9-10, 12-14, and 18-19 under 35 U.S.C. §102(b) and direct that claims 1-3, 5, 9-10, 12-14, and 18-19 be allowed.

**Rejections under 35 USC § 103(a)**

Claims 7, 8 and 15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 5,460,592 to Langton et al. Claim 4 stands rejected under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 6,106,455 to Kan in view of

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United States Patent No. 5,460,592 to Langton et al. These rejections are respectfully traversed and reconsideration is respectfully requested.

Applicants respectfully disclose that claims 4, 7-8, and 15 are dependent upon an independent claim or introduce further limitations of another dependent claim that is dependent on claim 1. In other words, dependent claims 4, 7-8, and 15 will stand or fall based on independent claim 1. Thus, since independent claim 1 is not rejected under 35 U.S.C. §103(a), Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §103(a).

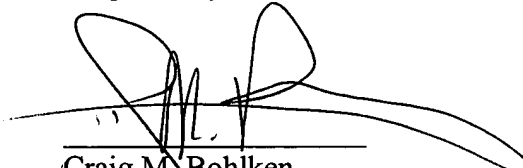
Accordingly, Applicants respectfully request that the Examiner withdrawal the rejections for claims 4, 7-8, and 15 under 35 U.S.C. §103(a) and direct that claims 4, 7-8, and 15 be allowed.

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**CONCLUSION**

Upon entry of this Amendment, claims 1-5, 7-10, 12-15, and 18-19 remain pending. Applicants submit that all outstanding issues have been addressed, and that claims 1-5, 7-10, 12-15, and 18-19 are in condition for allowance, which action is earnestly solicited. Authorization is hereby given to charge any fee which may be due in connection with this communication to Deposit Account 502-665.

Respectfully submitted,



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